REMARKS

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested. Claims 1, 3 and 6 are amended. Claim 2 is cancelled.

Rejection of Claims 1-4 and 6 Under 35 U.S.C. §102(e)

The Office Action rejects claims 1-4 and 6 under 35 U.S.C. §102(e) as being anticipated by Cobbley et al. (U.S. Patent No. 5,818,510) ("Cobbley et al."). Applicants have made a minor amendment to claim 1 to clarify the invention and traverses the Office Action's rejection of claims 1, 3, 4 and 6. Claim 2 is cancelled rendering that rejection moot.

Claim 1 recites a method comprising the steps of indexing a media collection to create an indexed library based on a content of the media collection, wherein indexing the media collection includes analyzing the content of the media collection to determine whether speech recognition data or closed captioning data may be used to index the media collection. The Office Action asserts that column 4, lines 43-50, column 6, lines 21-32, column 8, lines 35-44 and column 15, line 46 to column 16, line 7, disclose this feature of the invention of claim 1. Applicants traverse this analysis and note that column 4, lines 43-50 merely discuss indexing information which may be generated by scanning closed-captioning information or alternatively may be generated on the receiving end by scanning the received audio data utilizing a speech recognition process or by scanning received video image data information utilizing an image recognition process. This portion fails to teach the step of analyzing the content of the media collection to determine whether speech recognition data or closed captioning recognition data may be used to index the media collection, rather this portion merely teaches that indexing information may be generated from the various sources without identifying how to choose the source from which to gather the indexing information.

Column 6 discloses an index capturing device 112 that receives broadcast information from broadcast receiver 110 and obtains the indexing information from the broadcast information. Rather than analyzing the content of the media collection to determine whether speech recognition data or closed captioning data may be used to index the media collection, Cobbley et al. teach "the method utilized by index data capture device 112 used to obtain the indexing information is dependent on the method utilized by the broadcast source 105 to transmit the indexing information". Applicants note that columns 4 and 5 teach the various ways in which the broadcast source 105 will send indexing information which is transmitted concurrently with the video and/or audio news broadcast. In other words, it is clear from the teachings of Cobbley et al., that rather than analyzing the content of the media collection they teach that the method of obtaining the indexing information is "dependent" on the method used to broadcast the indexing information. The example they provide in column 6, line 21, is that the index capture data device 112 may receive the indexing information from one of the VBI lines or alternatively may utilize a video or speech recognition process or other communication links to obtain the indexing information. Column 8, lines 35-44, teach repeating news broadcasts that are transmitted from the broadcast source and fail to mention anything regarding indexing information. Applicants respectfully submit that these processes are independent of the content of the media collection and thus do not anticipate the invention of claim 1.

Column 15, line 46 to column 16, line 7, teach that information other than news can be transported to individual users via system 100 of Figure 1. Examples provided are soap operas and so forth. Again, they teach that the broadcast source 105 can transmit indexing information along with the video and audio data. The indexing information may include story line and character line indices. These audio and video segments may include indexing information such as story line and character line indexed information. Cobbley et al. teach that the capture device

115 may generate the necessary indexing information based on received close captioning material and further teaches that each segment can be indexed by the particular characters interacting in the video and audio broadcast at that time. In sum, they summarize their invention as providing a method and apparatus which receives a continuous stream of broadcast information and stores a most recent version of that information where individual users are then able to access the stored information and view the most recent portions of the information which are of interest to them based on indexing information provided to the users. Again, where the source device 105 provides this indexing information along with the audio and video content, it becomes clear that Cobbley et al. fail to teach analyzing the content of the media collection to determine whether speech recognition or closed captioning data may be used to index the media collection. Accordingly, Applicants respectfully submits that claim 1 is patentable and in condition for allowance. Claim 2 is cancelled and claims 3 and 6 are amended to be dependent upon claim 1. Accordingly, Applicants respectfully submit that claims 1, 3, 4 and 6 are patentable and in condition for allowance.

Rejection of Claims 8-13 Under 35 U.S.C. §102(b)

The Office Action rejects claims 8-13 under 35 U.S.C. §102(b) as being anticipated by Fasciano (U.S. Patent No. 6,336,093) ("Fasciano"). Applicants respectfully traverse this rejection and submit that Fasciano fails to teach each limitation cited in the claims.

We first turn to claim 8. Claim 8 recites a method of indexing media for browsing. The method comprises indexing a media collection according to detection of speaker voice characteristics. The Office Action asserts that Fasciano meets this limitation by its teachings at column 6, line 63 to column 7, line 17 and lines 40-53. This portion of the reference teaches the speech recognition module that receives an audio signal and one or more words or sound patterns as possible time codes. Nothing from column 6, line 63 to column 7, line 17 teaches anything

regarding indexing based on speaker voice characteristics. Rather, this portion of the reference introduces an editing interface that identifies the presence or absence of selected words or sound patterns rather than the mere presence or absence of sound. Accordingly, this portion rather than providing an index focuses and teaches mainly information regarding dividing video into segments or clips. Lines 40-53 teach an example of a journalist or an editor that may be notified when selected words or sound patterns associated with the journalist or editor are identified in a satellite feed. Upon receiving a matching video segment, the capture module may automatically direct a video clip to be viewed to a journalist workstation. The Examiner asserts that the module "captures and indexes the video or news information according to the voice of the journalist or editor speaker" (emphasis added). Applicants respectfully submit that the process identified in which a video clip may be identified and simply automatically directed to a journalist workstation differs from the process of "indexing" a media collection according to speaker voice characteristics. There is no teaching of any kind of persistence of the information or other basic features that would be necessary to match the limitation of indexing a media collection as is recited in claim 8.

Because Cobbley et al. fail to teach this limitation, the remaining limitations in claim 8 are also not taught. For example, the Office Action asserts that the step of "receiving a search query from a user to locate a media segment from the indexed media collection" is taught in Figure 1 and column 3, lines 11-44. However, it is clear that the information that is discussed in column 3 does not relate to the video segments associated with words or sound patterns of each journalist or editor which are discussed in column 7. In other words, column 3 does not teach that there is an indexing of video segments associated with the words or sound patterns of the journalists such that a search query may be used to locate one of those media segments. Rather, column 3, starting at line 11 discusses Figure 1 and an editing process. In this embodiment, the

recognized speech sounds are used in combination with a script to automatically match video segments with portions of the script that they represent. The script may be presented to an editor via computer user interface. The remaining portion of this citation simply enables the user to edit the video clip and does not appear to the Applicants to have anything to do with receiving a search query to locate a media segment from the indexed media collection.

Finally, as to the last step of claim 8 which recites "presenting a portion of the indexed media collection according to the user search query," the Office Action cites column 4, lines 7-16, column 5, line 47 – column 6, line 15 and lines 54-63. Applicants respectfully traverse this analysis and submit that none of these portions cite concepts that are comparable to this last step. Since the basic feature required for this step is absent from the reference, namely, the step of indexing a media collection according to the detection of speaker voice characteristics, Applicants submit that this step of presenting a portion of "the" index media collection according to the user search query also fails to be taught. Accordingly, Applicants respectfully submit that Fasciano fails to teach each limitation of claim 8 and this claim is therefore patentable and in condition for allowance.

Claims 9-13 each depend from claim 8 and recite further limitations therefrom. Inasmuch as these claims recite further details regarding indexing the media collection, Applicants submit that these limitations are also not taught in the reference. For example, claim 9 recites that indexing the media collection further comprises indexing the media collection according to visual information. This feature is simply not taught in the portion cited by the Examiner. Similarly, claim 10 recites indexing a media collection according to detection of speaker voice characteristics further comprises identifying speaker speech segments. In the context of indexing, which is not taught in the reference, this feature is also not taught.

Rejection of Claims 5 and 7 Under 35 U.S.C. §103(a)

The Office Action rejects claims 5 and 7 under 35 U.S.C. §103(a) as being unpatentable over Cobbley et al. in view of Hoffert et al. (U.S. Patent No. 5,983,176) (Hoffert et al.). Claim 5 ultimately depends on claim 1 and recites further limitations therefrom. Accordingly, Applicants respectfully submit that claims 5 and 7 are patentable and in condition for allowance.

Rejection of Claims 14-17 Under 35 U.S.C. §103(a)

The Office Action rejects claims 14-17 under 35 U.S.C. §103(a) over Fasciano in view of Halverston et al. (U.S. Patent No. 6,523,061) ("Halverston et al."). Applicants respectfully traverse this rejection and submit that for several reasons claims 14-17 are patentable.

To establish a *prima facie* case of obviousness, the Examiner must meet three criteria. First, there must be some motivation or suggestion, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to combine the references. Second, there must be a reasonable expectation of success, and finally, the prior art references must teach or suggest all the claim limitations. The Examiner bears the initial burden of providing some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." MPEP 2142.

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).

Furthermore, if the examiner determines there is factual support for rejecting the claimed invention under 35 U.S.C. 103, the examiner must then consider any evidence supporting the patentability of the claimed invention, such as any evidence in the specification or any other evidence submitted by the applicant. The ultimate determination of patentability is based on the entire record, by a preponderance of evidence, with due consideration to the persuasiveness of any arguments and any secondary evidence. *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). The legal standard of "a preponderance of evidence" requires the evidence to be more convincing than the evidence which is offered in opposition to it. With regard to rejections under 35 U.S.C. 103, the examiner must provide evidence which as a whole shows that the legal determination sought to be proved (i.e., the reference teachings establish a *prima facie* case of obviousness) is more probable than not. MPEP 2142.

The test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art, and all teachings in the prior art must be considered to the extent that they are in analogous arts. Where the teachings of two or more prior art references conflict, the examiner must weigh the power of each reference to suggest solutions to one of ordinary skill in the art, considering the degree to which one reference might accurately discredit another. *In re Young*, 927 F.2d 588, 18 USPQ2d 1089 (Fed. Cir. 1991).

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)

With these principles in mind, Applicants first submit that one of skill in the art would not have sufficient motivation or suggestion to combine these references. On page 7 of the Office Action, the Examiner asserts that it would be obvious to one of skill in the art to

incorporate the teachings of Halverston et al. into the system of Fasciano in order to interpret natural language input and to use the interpretation to form queries to achieve reduction of speech recognition errors and grammars. Applicants traverse this analysis because there the suggestive power of each reference simply does not lend itself to combining these two particular patents. For example, Fasciano clearly focuses analyzing audio in a video program to identify sound patterns or sound effects which are then used to enhance video processing. The audio sounds are used to control video capture and delivery during editing or to facilitate selection of clips or splice points during editing. See Abstract. The Field of the Invention is identified in Fasciano as related to use the speech recognition and data capture, processing, editing, display, retrieval and playback. They further note that the invention is particularly useful for capture, altering, and playback of synchronized audio and video data. Inherent in the teachings of Fasciano in the user of a graphical user interface such as the one displayed in Figure 1, feature 40, is that a user will typically be at a larger workstation when video editing occurs. For example, Figures 4, 5 and 6 illustrate various images that may be used for video editing. Applicants raise this point because what would naturally come to mind to one of skill in the art when the concept of video editing occurs is larger displays which are necessary to be able to view and manipulate video segments and video information as would be necessary in the editing process.

In contrast, Halverston et al. teach a system and method of providing agent based navigation and a speech-based data navigation system. In the Abstract they identify that the invention relates to navigating an electronic data source means by means of a spoken language where a portion of the data link between a mobile information application of the user and the data source utilizes wireless communication. When a spoken input request is received from a user, it is interpreted and the request is there upon used to automatically construct an operational

navigation query. The navigational query is routed to one or more agents which use the query to retrieve the desired information from one or more electronic data sources. One of the reasons that one of skill in the art would not have sufficient motivation or suggestion to combine these references is that clearly Halverston et al. focus on a mobile information appliance and requires wireless communication. Given the video and data intense operation of video editing and the necessity of utilizing a computer more like a desktop computer rather than a mobile computer, Applicants respectfully submit that these basic suggestive features of the two references severely limit the possibility of identifying sufficient motivation or suggestion to combine these references. Other details also limit the suggestive power to combine these references. For example, one of skill in the art would generally recognize that Fasciano's editing device is less likely to be used over a wireless network or over a network. For example the basis operation of an editing computer and program would likely change dramatically if it was applied in a hand held wireless device with a small display and limited buttons for interaction. Figure 1 illustrates a database 52 as part of editing system 48 and does not illustrate any network in between. Neither is any network mentioned. Typically, if one has an editing computer the database of clips from which to choose would likely be locally stored because of the delay which would be involved in continuously transmitting portions of video over a network. In contrast, Halverston et al. as mentioned above relate to a network data source and specifically a data source with which a user communicates via a wireless communication means. Accordingly, Applicants respectfully submit that for this additional reason, one of skill in the art would not by the preponderance of the evidence have sufficient motivation or suggestion to combine these references to reject claims 14-17.

A second reason exists for the patentability of these claims. Claim 14 depends from claim 8 which as discussed above includes limitations which are not taught in the Fasciano

reference. Accordingly, claim 14 adds the limitation wherein receiving a search query from a user further comprises receiving a natural language query. Inasmuch as Fasciano fails to teach each limitation of the claim and the parent claim is thus allowable, Applicants respectfully submit that claim 14 is allowable as well. Claims 15-17 each depend from claim 14 and recite further limitations therefrom. Accordingly, Applicants respectfully submit that these claims are patentable as well.

CONCLUSION

Having addressed all rejections and objections, Applicant respectfully submits that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited. The Commissioner for Patents is authorized to charge or credit the **Law Office of Thomas M. Isaacson**, **Account No. 502960** for any deficiency or overpayment.

Respectfully submitted,

Date: January 30, 2007

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